
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

DENNIS RUIZ,

Defendant.

**MEMORANDUM DECISION
AND ORDER RE: COMMITMENT
AND EXAMINATION**

Case No. 2:17-cr-00731-DN

District Judge David Nuffer

On January 25, 2019, an order (the “Commitment Order”)¹ was entered committing Defendant Dennis Ruiz to the custody of the Bureau of Prisons (“BOP”) for placement in a specified facility under [18 U.S.C. § 4243](#) and the performance of a psychiatric or psychological examination under [18 U.S.C. § 4247](#). The Commitment Order requires a report of the examination to be filed by February 25, 2019, in preparation for a hearing on March 5, 2019, regarding Ruiz’s mental condition.

Plaintiff United States of America now requests that the Commitment Order be amended.² Specifically, the United States asks (1) that the BOP be allowed to designate where Ruiz is held, and (2) that the deadline for completion of Ruiz’s evaluation and report be “suspended.” For the following reasons, the United States’ request will be granted in part and denied in part.

¹ Order for Commitment and Psychological Examination (“Commitment Order”), [docket no. 41](#), filed January 25, 2019.

² Motion to Amended [sic] Order for Commitment and Psychological Examination (“Motion”), [docket no. 43](#), filed February 25, 2019.

DISCUSSION

The BOP has discretion to designate where Ruiz is held.

As a general matter, the BOP has complete discretion to determine where to confine an inmate.³ “The language of 18 U.S.C. § 4247 reflects a grant of this same level of discretion to the [BOP].”⁴ Because the BOP “makes the ultimate decision where the examination under 18 U.S.C. § 4247(b) takes place,”⁵ the United States’ request that the BOP be allowed to designate where Ruiz is held will be granted.

The deadline to complete Ruiz’s examination should be extended.

It is not appropriate to “*suspend* the deadlines for the completion of and a hearing on [Ruiz’s] evaluation,” as the United States requests,⁶ because a hearing conducted under § 4247(d) must “take place not later than forty days following the special verdict.”⁷ This deadline may, however, be *extended* “when it is reasonable to delay.”⁸

The specific facility in which the Commitment Order required Ruiz to be placed does not conduct the type of examination required.⁹ Because of this, Ruiz’s “has not yet been evaluated.”¹⁰ Based on these facts, which “justify delay beyond the 40 days,”¹¹ it is reasonable

³ See 18 U.S.C. § 3621; *United States v. Williams*, 65 F.3d 301, 307 (2nd Cir. 1995).

⁴ *United States v. Martin*, No. CR 08-1012, 2011 WL 5220310, *14 (D.N.M. Sept. 27, 2011).

⁵ *Id.*

⁶ Motion, *supra* note 2, at 1 (emphasis added).

⁷ 18 U.S.C. § 4243(c).

⁸ *United States v. Conrad*, 776 F.3d 253, 259 (4th Cir. 2015).

⁹ Motion, *supra* note 2, at 3.

¹⁰ *Id.*

¹¹ *Conrad*, 776 F.3d at 260.

and proper to extend the deadline for Ruiz's evaluation and the date of his corresponding hearing under the Commitment Order.

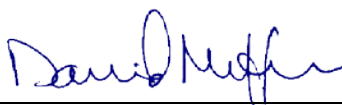
ORDER

THEREFORE, IT IS HEREBY ORDERED that the United States' motion¹² is GRANTED in part and DENIED in part as follows:

1. Notwithstanding anything in the Commitment Order¹³ to the contrary, the BOP has discretion to designate where Ruiz is placed under the Commitment Order.
2. The examination required in the Commitment Order¹³ to be performed by Dr. Alicia Gilbert may, at the United States' option, be conducted instead by another competent professional with substantially similar qualifications and expertise. The deadline to complete this examination and report is extended to Monday, April 29, 2019.
3. The hearing referred to in the Commitment Order¹³ regarding Ruiz's mental condition shall be held at 9:00 a.m. on Tuesday, May 7, 2019, in courtroom 2B, 206 W. Tabernacle St., St. George, Utah.

Signed February 28, 2019.

BY THE COURT:



David Nuffer
United States District Judge

¹² [Docket no. 43](#), filed February 25, 2019.

¹³ [Docket no. 41](#), filed January 25, 2019.